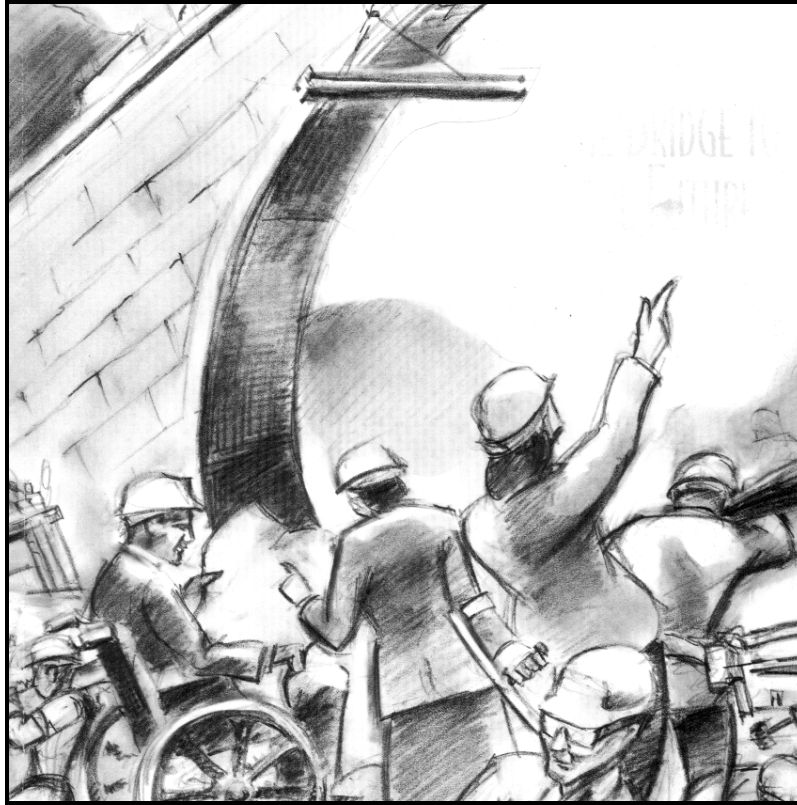


Discover Ability



A Disability Resource Guide

For Seattle Area Small Businesses

Find out about:

Employing qualified people with disabilities

Tax incentives and deductions

Workplace accommodations

Recruiting resources

The hiring process



City of Seattle Greg Nickels, Mayor

Seattle Office for Civil Rights

Produced by:

City of Seattle Greg Nickels, Mayor

Office for Civil Rights

700 Third Avenue, Suite 250
Seattle, WA 98104-1849
(206) 684-4543
TTY (206) 684-4503

Updated July 2002

Some sections of the Resource Guide, including the cover art, are reprinted from materials produced by the Office of Disability Employment Policy (ODEP) formerly the President's Committee on Employment of People with Disabilities. For more information or for a copy of their Educational Kit, call (202) 376-6200 (Voice), (202) 376-6205 (TTY) or E-mail: info@pcepd.gov.

Additional information was adapted from materials produced by the Washington State Department of Personnel, Personnel Services and Administration Unit.

Note: Listings of disability-related resources in this packet do not constitute endorsement by the City of Seattle government, nor do omissions imply non-endorsement. If you know of useful resources missing from this list, please call our office to let us know.

This booklet is available in alternative formats upon request.

Produced by:

City of Seattle Greg Nickels, Mayor

Office for Civil Rights

**700 Third Avenue, Suite 250
Seattle, WA 98104-1849
(206) 684-4543 (Voice)
(206) 684-4503 (TTY)**

Updated July 2002

Some sections of the Resource Guide, including the cover art, are reprinted from materials produced by the Office of Disability Employment Policy (ODEP) formerly the President's Committee on Employment of People with Disabilities. For more information or for a copy of their Educational Kit, call (202) 376-6200 (Voice), (202) 376-6205 (TTY) or E-mail: info@pcepd.gov.

Additional information was adapted from materials produced by the Washington State Department of Personnel, Personnel Services and Administration Unit.

Note: Listings of disability-related resources in this packet do not constitute endorsement by the City of Seattle government, nor do omissions imply non-endorsement. If you know of useful resources missing from this list, please call our office to let us know

This booklet is available in alternative formats upon request.

Contents

A message from the Director

Tax incentives for businesses

Where to look for qualified applicants

Workplace accommodations

Employer profiles

What you should know about the hiring process

A Message from the Director

Seattle Office for Civil Rights

This Disability Resource Guide was first developed in October 1997 to honor National Disability Employment Awareness Month. We have updated the Guide's contents to provide current information and resources.

We must continue to focus our attention on those who *can* succeed in the workplace but who too often lack employment opportunities. For years our society has labeled people with disabilities unemployable, assuming that they lack education, training, and job skills. Many employers have assumed that people with disabilities simply choose not to work. Both assumptions are myths.

Who are people with disabilities?

People with disabilities are a minority group that any of us could join at any time. Each of us has about a 20% chance of becoming disabled at some point during our working life. We may develop diabetes, arthritis, partial sight or hearing loss or carpal tunnel syndrome. We may need to use a cane or wheelchair.

People with disabilities cross all racial, gender, socioeconomic, and organizational lines. As people live and work longer, age-related disabilities will become more common in the workplace. Clearly, employers who choose to ignore such a vast source of qualified labor diminish their own potential.

Why hire people with disabilities?

The Seattle Office for Civil Rights (SOCR) knows that thousands of people with disabilities in Seattle remain out of the employment loop. People with disabilities represent a largely untapped pool of qualified labor. They are the nation's largest minority group, numbering 48.9 million people, or 19% of the civilian population. Only 52% of all people with disabilities between the ages of 21 and 64 are currently employed, and only 26% of people with severe disabilities (such as blindness, deafness, and mobility disabilities like quadriplegia) are employed.

Compare these figures to the 82% of the non-disabled population now working, and we begin to see the extent of the employment crisis affecting the disabled community.



*Germaine W. Covington, Director
Seattle Office for Civil Rights*

Dangerous myths

Myths surrounding the Americans with Disabilities Act and the civil rights protections it affords continue to persist. The Seattle Office for Civil Rights, a city agency which investigates discrimination complaints and offers assistance on a range of disability issues, receives calls from business owners who mistakenly believe the law requires them to hire people with disabilities who are not qualified. Some believe the ADA forces them to provide workplace accommodations that are beyond their means. Neither is true.

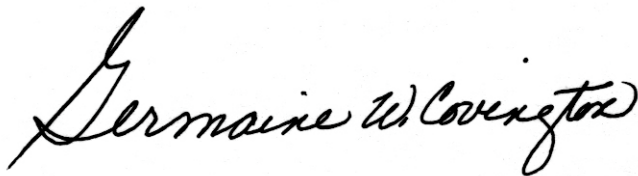
In fact, the ADA is a highly flexible and pragmatic law that provides employment protection only for applicants and workers who are fully qualified for their positions. It does not require that employers make accommodations that are unreasonable or financially prohibitive. The aim of the ADA, as well as state and local disability-related laws, is to protect people against discrimination based on disability.

What the business community can do

As business owners in Seattle seek to find committed and qualified employees, I urge them to actively recruit people with disabilities by contacting organizations, agencies and programs that represent and serve the disabled community. We have listed many of these organizations in this packet.

Follow the lead of those employers who are already reaching out to the disabled community. Nationwide businesses are hiring more people with disabilities than ever before. Learn more about people with disabilities by calling disability-related organizations for information. Educate and sensitize your colleagues, bosses, and employees on the value of hiring people with disabilities. Learn about "reasonable accommodation" and other provisions of the ADA, and familiarize yourself with state and local anti-discrimination laws. This Resource Guide is a good place to start.

Business owners and managers can no longer afford to disregard a major segment of the labor force. I urge you to recruit, hire and promote qualified people with disabilities. It simply makes good business sense.

A handwritten signature in black ink that reads "Germaine W. Covington". The signature is fluid and cursive, with the first letter of "Germaine" being a large, stylized capital "G".

Germaine W. Covington
Director of the Seattle Office for Civil Rights

Tax Incentives for Businesses

There are three tax incentives available to help employers cover the cost of accommodations for employees with disabilities and to make their places of business accessible for employees and/or customers with disabilities.

Small Business Tax Credit: IRS Code Section 44, Disabled Access Credit

What is it? Small businesses may take an annual tax credit for making their businesses accessible to people with disabilities.

Who is eligible? Small businesses that in the previous year earned a maximum of \$1 million in revenue or had 30 or fewer full-time employees are eligible.

What is the amount?

The credit is 50 percent of expenditures over \$250, not to exceed \$10,250, for a maximum benefit of \$5,000. The credit amount is subtracted from the total tax liability after calculating taxes.

What expenses are covered?

The credit is available every year and can be used for a variety of costs such as:

- sign language interpreters for employees or customers who are deaf or hard of hearing;
- readers for employees or customers who have vision disabilities;
- the purchase of adaptive equipment or the modification of equipment;
- the production of print materials in alternate formats (e.g., Braille, audio tape, large print);
- the removal of architectural barriers in buildings or vehicles.

What expenses are not covered?

The tax credit does not apply to the costs of

new construction, and a building being modified must have been placed in service before November 5, 1990.

How can this credit be claimed? Businesses can claim the Disabled Access Credit on IRS Form 8826.

Where can I obtain additional information?

Mark Pitzer, Attorney,
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224
(202) 622-3110

Architectural / Transportation Tax Deduction: IRS Code Section 190, Barrier Removal

What is it? Businesses may take an annual deduction for expenses incurred to remove physical, structural, and transportation barriers for people with disabilities at the workplace.



Who is eligible?

All businesses are eligible.

What is the amount? Businesses may take a tax deduction of up to \$15,000 a year for expenses incurred to remove barriers for people with disabilities. Amounts in excess of the \$15,000 maximum annual deduction may be depreciated.

What expenses are covered?

The deduction is available every year. It can be used for a variety of costs to make a facility or public transportation vehicle, owned or leased for use in the business, more accessible to and usable by people with disabilities. Examples include the cost of:

- providing accessible parking spaces, ramps, and curb cuts;
- providing telephones, water fountains, and restrooms which are accessible to people using wheelchairs;
- making external walkways at least 44 inches wide;

What expenses are not covered?

The deduction may not be used for expenses incurred for new construction, or for the complete renovation of a facility or public transportation vehicle, or for the normal replacement of depreciable property.

May I use the tax credit and tax deduction together? Small businesses may use the credit and deduction together, if the expenses incurred qualify under both Sections 44 and 190. For example, if a business spent \$12,000 for access adaptations, it would qualify for a \$5,000 tax credit and a \$7,000 tax deduction.

Are there limits on annual usage? Although both the tax credit and deduction may be used annually, if a business spends more than may be claimed in one year, it cannot carry over those expenses and claim a tax benefit in the next year.

How can this credit be deducted?

The amount spent is subtracted from the total income of a business to establish its taxable income. In order for expenses to be deductible,

accessibility standards established under Section 190 regulations must be met.



Where can I obtain additional information?

Mark Pitzer, Attorney
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224
(202) 622-3110

Work Opportunity Tax Credit (WOTC)

What is it? The Work Opportunity Tax Credit (WOTC), which replaces the Targeted Jobs Tax Credit (TJTC) Program, provides a tax credit for employers who hire certain targeted low-income groups, including vocational rehabilitation referrals, former AFDC recipients, veterans, ex-felons, food stamp recipients, summer youth employees and SSI recipients.

How does it apply to people with disabilities? Applicants who are Vocational Rehabilitation (VR) referrals are eligible. A VR referral is certified by the State Employment Security Agency (SESA) as:

- Having a physical or mental disability resulting in a hindrance to employment; and

- Referred to an employer upon completion of or while receiving rehabilitative services, pursuant to the Vocational Rehabilitation Act of 1973, as amended.



What is the amount? An employer may take a tax credit of up to 40 percent of the first \$6,000, or up to \$2,400 in wages paid during the first 12 months for each new hire.

What are the effective dates? January 1, 2002 through September 30, 2003. This program is subject to yearly congressional renewal.

What are the minimum employment requirements? Eligible employees must work 180 days or 400 hours; summer youth must work 20 days or 120 hours. The employer may claim a partial credit of 25 percent for certified employees who worked at least 120 hours, but less than 400 hours.

What agency provides the WOTC certification? The local State Employment Security Agency (SESA).

How do I file for this credit?

Complete and submit IRS Form 8850, "Pre-Screening Notices and Certification Request for the Work Opportunity and Welfare-to-Work Credits," to your local SESA.

How does it work?

- The employer determines likely eligibility by including the WOTC Pre-Screening Notice as part of the application process.
- On or before the day employment is offered, the Pre-Screening Notice must be signed by the employer and employee and mailed to the SESA within 21 days after the employee begins work.
- The employer documents eligibility (based on information received from the employee) and submits documentation to the SESA.
- SESA certifies which individuals are eligible for WOTC, and notifies the employer in writing for the purpose of filing the tax credit.

Where can I obtain IRS Form 8850?

Call (800) 829-3676 TTY (800) 829-4059 or visit the IRS Web site at http://www.irs.ustreas.gov/prod/forms_media/reports/forms.html/

Where can I obtain additional information?

Call your State Employment Agency WOTC Coordinator or the US Department of Labor, (202) 219-9092. <http://www.doleta.gov/wotc/htm>

Contact Robert Wheeler, Staff Attorney
Office of the Associate Chief Council
Employee Benefits and Exempt Organizations
Internal Revenue Service
(202) 622-6060.

Where to look for qualified applicants

The following is a list of public and non-profit organizations in the Seattle area that offer job development and/or placement services for people with disabilities. Employers interested in hiring qualified workers in any field should send job announcements to these agencies and consult with their placement specialists.

Public Agencies

WA Dept. of Social and Health Services
Division of Vocational Rehabilitation
1200 E. Cherry
Seattle, WA 98122
(206) 721-7300
TTY (206) 720-5208

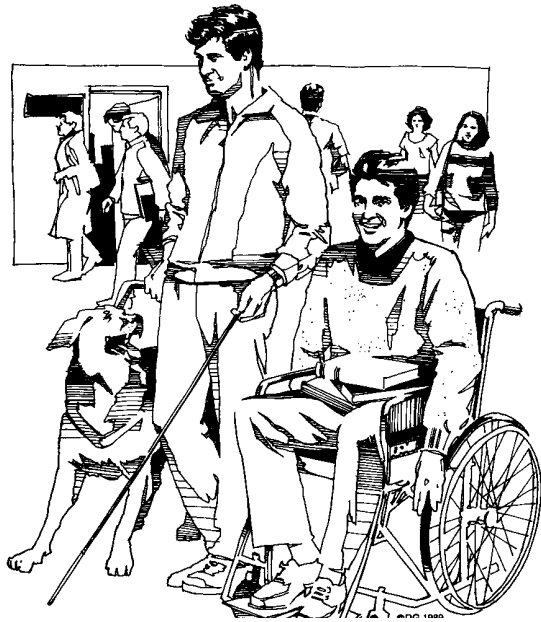
WA Dept. of Services for the Blind
3411 S. Alaska Street
Seattle, WA 98118-1631
(206) 721-4422
711 (Washington Relay Service for TTY)

WA Employment Security Department
Job Connection
2531 Rainier Avenue South
Seattle, WA 98144
(206) 721-6056
TTY (206) 721-5986

* referral by other agencies

King County Community Psychiatric Clinic
StepWorks Program
4319 Stoneway Avenue North
Seattle, WA 98103
(206) 545-2354

City of Seattle
Mayor's Office For Senior Citizens
55 Plus Program
618 2nd Avenue, Room 25
Seattle, WA 98104
(206) 684-0500
TTY (206) 233-2778



Private / Non-Profit Agencies

WA Coalition for Citizens with Disabilities
4649 Sunnyside N., Suite 100
Seattle, WA 98103
(206) 545-7055
TTY (206) 632-3456

Washington State Business Leadership Network
3670 Stone Way N
Seattle, WA 98103-8004
(206) 826-1032
TTY (206) 440-2206

Lighthouse for the Blind
2501 South Plum St.
Seattle, 98144
(206) 322-4200
TTY (206) 324-1388

Orion Industries
33926 9th Ave. South
Federal Way, WA 98003
(253) 661-7678
TTY (253) 661-7838

AARP Senior Community Service
Employment Program
1511 3rd Avenue #815
Seattle, WA 98101
(206) 624-6698
(206) 624-6699 (Fax)

Hearing, Speech and Deafness Center
TAPP Program
1620 18th East
Seattle, WA 98122
V/TTY (206) 323-5770

RCH Technical Institute
Career Center
500 SW 7th Street
Renton, WA 98022
(425) 271-0587
TTY (425) 430-8857

Washington Vocational Services
22316 70th Avenue W., Suite D
Mountlake Terrace, WA 98043
V/TTY (425) 774-3338

Colleges

Seattle Central Community College
Disability Support Service
1701 Broadway, room 1142
Seattle, WA 98122
(206) 587-4169
TTY (206) 344-4347

North Seattle Community College
Educational Access Center
9600 College Way North
Seattle, WA 98103
(206) 527-7307 TTY (206) 526-0079

Agencies serving people with developmental disabilities

WA Dept. of Social and Health Services
Division of Developmental Disabilities
1700 East Cherry
Seattle, WA 98122
(206) 720-3300
TTY (206) 872-2762

Work Opportunities
6515 202nd SW
Lynnwood, WA 98036
V/TTY (425) 778-2156

MainStay
1701 Broadway, 2NP101
Seattle, WA 98122
V/TTY (206) 587-3813



Workplace accommodations

The City of Seattle's Fair Employment Practices Ordinance requires that employers with one or more employees make reasonable accommodations in the workplace for employees with disabilities.

Small business owners and managers should understand their responsibility to provide accommodation to both employees and applicants. By violating the law, employers can create a potentially serious liability issue for themselves.

The Seattle Office for Civil Rights is an agency that investigates discrimination complaints, conciliates agreements between involved parties, and when required, imposes remedies in cases where discrimination is found to have occurred. Employers are encouraged to protect themselves and their employees by learning more about the law regarding reasonable accommodation.

What is reasonable accommodation?

Reasonable accommodation is a logical adjustment to a job or workplace environment that enables a qualified person with a disability to perform the essential duties of his/her position. As an employer, the law requires that you pay for and provide reasonable accommodation for qualified applicants or employees who are disabled.

How do I know when to provide an accommodation?

In most instances an individual with a disability would inform you of the need for accommodation. This person can be a current employee, a job applicant, or someone you are considering for a promotion or transfer. Your obligation to

provide reasonable accommodation applies to any term or condition of employment.

There is no right answer or formula for providing reasonable accommodation. The best approach is to work closely with an employee or applicant in choosing effective accommodations. The aim is to help the employee get what is needed to do the best job possible.

What kinds of reasonable accommodations are there?

Because there are many kinds of disabilities and jobs, there are many kinds of accommodations that employers can make.

For example, a qualified job applicant who is blind may need a business owner to provide a version of the job application on audio tape or in Braille. An employee who is hard of hearing may need her employer to purchase a telephone amplifier.

Accommodation does not refer only to physical modifications or equipment. As an employer, you may need to provide additional training for your staff, change workplace policies or procedures, restructure a job, or alter a worker's schedule. The type of accommodation provided should be determined in a collaborative process between you and the person who is disabled.

Are reasonable accommodations very expensive?

Generally not. The following chart compiled by the US Department of Labor Office of Disability Employment Policy's Job Accommodation Network (JAN), shows that most accommodations are relatively inexpensive.

<i>Accommodation Cost</i>	<i>Percent</i>
No cost	20%
Between \$1 and \$500	51%
Between \$501 and \$1,000	11%
Between \$1,001 and \$1,500	3%
Between \$1,501 and \$2,000	3%
Between \$2,001 and \$5,000	8%
Greater than \$5,000	4%

According to a JAN Report, the average cost of a job accommodation for a person with a disability is \$200.

For every dollar an employer spends for disability-related job accommodations, the company saves \$34 (e.g., workers' compensation and other insurance savings, training of new employees, and increased productivity).

Why hire people with disabilities if it may cost extra money?

For starters, it makes good business sense to hire and retain people with disabilities. When you consider applicants who have a disability, you are drawing from a relatively untapped talent pool. This can give your business a competitive edge where competition for good employees is fierce.

If a skilled worker becomes disabled while s/he is with your company, it may be far less expensive to provide an accommodation than to hire and train a new employee.

Many workplace accommodations are tax deductible. As an employer who hires qualified people with disabilities, you may be eligible for up to three federal tax incentive programs. See the section of this booklet that describes these programs.

What is a disability and which ones require accommodation?

Under federal law a disability is a physical or mental impairment that substantially limits

one or more major life activities of an individual. This often applies to people whose condition limits their ability to see, hear, walk, lift objects, write, type, use tools or do any number of activities.

Under Washington State law and City of Seattle ordinance, the definition includes any "physical, sensory, or mental condition which is medically cognizable or diagnosable." This could apply to people with partial hearing loss, a diagnosed sensitivity to chemicals in the workplace, asthma, or chronic fatigue syndrome. City and State laws also cover people who are perceived to be disabled even if they are not. Accommodation must be provided if requested by individuals who meet this criterion.

What if the disability is a result of an off-the-job injury?

An employer is required to provide a reasonable accommodation regardless of how or when the person became disabled.

What if I can't afford it?

Most accommodations are relatively inexpensive. There may be circumstances, however, when an accommodation is beyond the means of an employer. Should this apply to your business, you would need to demonstrate that the accommodation would create an undue financial or administrative hardship.

Financial assistance for accommodations is sometimes provided to businesses that hire individuals who qualify for programs of the Department of Services for the Blind or the Division of Vocational Rehabilitation.

How do I go about making a workplace accommodation?

Step 1: Decide if the employee with a disability is qualified to perform essential job functions with or without an accommodation.

Step 2: Identify the employee's workplace accommodation needs by:

- involving the employee with a disability in every step of the process;
- employing confidentiality principles while exploring ways to provide workplace accommodations;
- consulting with rehabilitation professionals, if needed; and
- identifying the employee's functional limitations and potential accommodations.

Step 3: Select and provide the accommodation that is most appropriate for the employee and employer.

- Cost should not be an undue hardship.
- Accommodations selected should be effective, reliable, easy to use, and readily available for the employee needing the accommodation.
- An employee should try the product or piece of equipment prior to purchase.

Step 4: Check results by:

- Monitoring the accommodation to see that the adaptation enables the employee to complete the necessary work task(s); and
- Periodically evaluating accommodations to ensure effectiveness.

Are workplace accommodations tax deductible?

Substantial tax incentives are available to employers who hire people with disabilities and/or who make their workplaces accessible. See the section of this booklet entitled "Tax Incentives for Businesses."

Where can I learn more about reasonable accommodations?

WA Assistive Technology Alliance
University of Washington
Box 357920
Seattle, WA 98195 V/TTY (800) 214-8731
or V/TTY (509) 328-9350

US Department of Labor
Office of Disability Employment Policy
Job Accommodation Network
V/TTY (800) 526-7234
<http://www.jan.wvu.edu/english/homeus.htm>

Northwest Disability Business Technical
Assistance Centers (NWDBTAC)
V/TTY (800) 949-4232

Equal Employment Opportunity Commission
For Technical Assistance:
(800) 669-4000 or (206) 220-6883
TTY 800-669-6820 or (206) 220-6882
<http://www.eeoc.gov>

For assistance in providing accommodations for clients of state disability employment programs, contact:

WA Dept. of Social and Health Services
Division of Vocational Rehabilitation
1200 E. Cherry, Seattle, WA 98122
(206) 721-3200 or TTY (206) 720-5208

WA Dept. of Services for the Blind
3411 S. Alaska Street
Seattle, WA 98118-1631
(206) 721-4422

Employer profiles

The US Department of Labor's Office for Disability Employment Policy developed the following employer profiles. These employers subscribe to the motto: "It makes good business sense to employ people with disabilities." Profiles are based on information provided by the employer.

Carolina Fine Snacks, Greensboro, NC

Business: Snack food manufacturer

Total employees: 14

Employees with disabilities: 6

Self-identified disabilities:

Learning disabilities, vision impairment, psychiatric disabilities, hard of hearing

Positions held by employees

with disabilities: Packers, warehouse management assistants

Accommodations provided: None required

Impact of hiring people with disabilities:

Employee turnover dropped from 80% every six months to less than 5%; productivity rose from 60-70% to 85-95%; absenteeism dropped from 20% to less than 5%; tardiness dropped from 30% of staff to 0.



Nordstrom, Inc., Seattle, WA

Type of business: Retail sales

Total employees: 30,000

Employees with disabilities:

No data provided

Self-identified disabilities:

Vision/hearing/ mobility impairment

Positions held by employees with

disabilities: Sales, support, management

Accommodations provided:

Interpreters, TTY lines, work station modification, flexible work schedule

Impact of hiring people with disabilities:

Expanded customer base and increased sales related to employee and customer diversity.

Stuck Development,

West Branch, MI

Business: Ownership/management of convenience stores and restaurants

Total employees:

56 full-time, 66 part-time/seasonal

Employees with disabilities:

4% full-time, 6% part-time

Self-identified disabilities:

Developmental disabilities

Positions held by employees

with disabilities: Dishwasher, customer service, stock, maintenance

Accommodations provided: Assigning duties that accommodate a person's lifting restrictions, providing internal support system, adjusting work schedules to fit public transportation schedules, telephone device, additional training time, color coding, providing pictures to describe tasks, restructuring tasks, supported employment

Impact of hiring people with disabilities:

Many different general maintenance requirements met while also achieving higher levels of quality for a very reasonable cost.

Kreonite, Inc., Wichita, KS

Business: Designer and manufacturer of photographic processing systems

Total employees: 240

Employees with disabilities: Approx. 15%

Self-identified disabilities: Psychiatric disability, mental retardation, deafness, deafness/blindness, vision disability

Positions held by employees

with disabilities: Small parts assembly, electrical assembly, electrical mechanical assembly, supervisory, drafting, clerical, machine operation, maintenance

Accommodations provided: Sign language classes for hearing employees, jigs and

fixtures as requested, shift - changes, cordless screwdrivers

Year first employed people with disabilities: 1974

Impact of hiring people with disabilities:

Improved attendance, less turnover which means smaller training cost and unemployment cost, improvements in company loyalty, productivity, job responsibility and work ethics.



What you should know about the hiring process

The Seattle Office for Civil Rights (SOCR) enforces anti-discrimination laws and investigates cases of alleged discrimination. Some of our cases are filed by people who believe they have been treated unfairly because of their disability status in the hiring process.

This section is intended to help small business owners and managers avoid common mistakes and to better understand their responsibilities under the law.

Disability-related laws, such as the Americans with Disabilities Act (ADA), can affect many areas your recruitment and selection process including:

- how you advertise for positions;
- the questions you ask on applications;
- the job functions you require individuals to perform;
- the questions you ask during interviews;
- requirements you may have regarding the taking of competency tests or medical examinations.

Qualifications and Standards

In considering the qualifications of an individual with a disability, an employer is not required to lower existing standards that apply to the quality or quantity of work for a given job. However, these standards must be uniformly applied to all applicants or employees of that job, regardless of their disability status.

An employer may base a hiring decision only on the individual's ability to perform the *essential* functions of a job, with or without a reasonable accommodation. If an individual indicates that he/she is not able to perform *marginal* (or non-*essential*) functions because of his/her disability, the employer

may not consider this fact in the selection process.

Although the ADA does not require employers to have job descriptions, such descriptions can help clarify essential job functions. Identification of essential job functions is crucial to:

- developing appropriate interview questions;
- determining whether a candidate or employee can perform his/her responsibilities, and with what degree of competence;
- determining whether or not, and to what extent, specific job accommodations can be made for a particular individual.

On your job descriptions, remember to clearly differentiate between *essential* and *marginal* functions of the job. Marginal functions of the job are those which are not absolutely necessary for the job, although they may be convenient for the employer.

The ADA does not restrict an employer's authority to establish needed job qualifications, including requirements related to:

- education
- skills
- work experience
- licenses or certification
- physical and mental abilities
- health or safety
- or other *job-related* requirements

Remember, these qualifications must be applied equally to all applicants or employees and they must be associated with essential job functions.

An employer may establish physical and mental qualifications that are necessary to perform the job (for example, jobs in construction industries, police and firefighter jobs) or to protect health and safety.

As with other job-related qualification standards, if a physical or mental qualification standard screens out a person with a disability, the employer must be prepared to show that the standard is job-related and consistent with business necessity.

Applications and Interviews

Job applications and interviews are intended to gather information about the abilities, education, experience, training, and credentials of an applicant. Under the law, they may not be used to collect information about whether an applicant has a disability.

Employers may not ask questions about illness because they may reveal the existence of a disability. Questions about medication, past Worker's Compensation claims, injuries, substance abuse, or family medical history are prohibited.

Examples of questions that employers *cannot* ask on applications or in job interviews

- Have you ever been treated for any of the following diseases or conditions? (Followed by a checklist)
- Have you ever been treated by a psychiatrist or psychologist?
- Is there any health-related reason you may not be able to perform the job for which you are applying?
- Have you had a major illness or operation in the last 5 years?
- How many days were you absent from work because of illness?
- Are you taking any prescribed drugs?
- Have you been treated for drug addiction or alcoholism?
- Have you ever filed for Workers' Compensation insurance?

Information that may be requested on application forms or in interviews

An employer may ask questions to determine whether an applicant can perform specific job functions. The questions should focus on the applicant's ability to perform the job, not on his/her disability.

For example: After an employer provides information about specific job functions, the employer can ask the applicant:

- Are you able to perform these tasks with or without an accommodation?

If the applicant indicates s/he can perform the tasks with an accommodation, s/he may be asked:

- How would you perform these tasks, and with what accommodation?

Note that employers cannot refuse to hire a qualified individual with a disability because of this person's need for an accommodation that would be required under law.

Although the law prohibits an employer from asking about past work absences, an employer may provide information on its attendance requirements and ask if the applicant can meet these requirements.

Making the application and interview process accessible

There are several ways that employers can promote their job openings in ways that include and encourage people with disabilities to apply. Here are some ideas:

- Advertise job openings through disability-related agencies. (See listings in this booklet's "Recruitment" section;
- Post job notices in places that are accessible to people with disabilities;
- Make job notices available in large print so they are readable by people with vision loss.

- Encourage people with disabilities to apply in your job announcements;
- List your TTY number on job announcements so that people with deafness, hearing loss or a speech disability may contact you directly. If a TTY is not available, list the telephone number for the Washington Telecommunications Relay Service (WTRS): 711.
- If an applicant must appear in person to complete an application or to interview for a position, make sure that the location is accessible.

Testing for skills & competency

The ADA and other Civil Rights laws require that tests that measure aptitude, skill, physical agility, mental acuity, or other characteristics be job-related and consistent with business necessity.

All tests should measure only a candidate's ability to perform the *essential* functions of the job. Tests should also be accurate predictors of successful job performance.

If you have tests that screen out people with disabilities, you must be prepared to show that these tests are job-related and consistent with business necessity.

Medical examinations

An employer may not require a job applicant to take a medical examination, or to respond to medical inquiries, or to provide information about Worker's Compensation Claims before the employer offers a job to the applicant. Employment can be conditioned on the results of the applicant's post-offer medical examination. An employer may need to conduct an exam to determine if an applicant can perform certain jobs effectively and safely. Employers must conduct such an exam as a separate, second step of the selection process, after an individual has met all other job prerequisites, and after they

have been offered employment. If medical exams are required, they must be done for all entering employees in that job category. You cannot require an exam for some entering employees and not others.

If an employer withdraws a job offer, s/he must be prepared to show that no reasonable accommodation was available that would enable this individual to perform the essential functions of the job, or that the accommodation would impose an undue hardship.

All medical information collected through this process must be kept strictly confidential.

Resources

Northwest Disability Business Technical Assistance Center (NWDBTAC)
V/TTY (800) 949-4232

Equal Employment Opportunity Commission (EEOC)
(800) 669-4000 or (206) 220-6883
TTY (800) 669-6820 or (206) 220-6882
To Obtain Documents:
(800) 669-3362 or TTY (800) 800-3302
Internet: <http://www.eeoc.gov>

US Department of Labor
Office of Disability Employment Policy
V/TTY (800) 526-7234
<http://www.jan.wvu.edu/english/homeus.htm>

P:\SHARED\SOCR\Publications\Disability\Discover Ability Booklet-2002-final.doc